

Executive Summary – Enforcement Matter – Case No. 48570

TPC Group LLC

RN100219526

Docket No. 2014-0563-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Houston Plant, 8600 Park Place Boulevard, Houston, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: Respondent is subject to a Voluntary Emissions Reduction Agreement ("VERA")

Interested Third-Parties: None

Texas Register Publication Date: March 27, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$0; stipulated penalties will be assessed for qualifying emissions events

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: Through advance coordination with the TCEQ SEP Program, fifty percent (50%) of any stipulated penalties may be directed to one or more SEPs listed on the Commission's pre-approved SEP list for the Houston/Galveston/Brazoria (including Chambers County) area.

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 48570
TPC Group LLC
RN100219526
Docket No. 2014-0563-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: N/A
Date(s) of NOE(s): N/A

Violation Information

N/A

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

- 1.a. Since June 9, 2005, Respondent has been subject to a VERA with the Executive Director designed to further reduce emissions of butadiene at the Plant through the use of a fence-line monitoring system and other emission control measures;
- b. This fence-line monitoring system at the Plant has enhanced Respondent's ability to detect emissions events, the speed at which it detects emissions events, and its ability to quickly identify the source of an emissions event, compared to traditional emissions detection methodologies. This has given Respondent the ability to respond more rapidly to emissions events at the Plant. Due to the fence-line monitoring system's low parts-per-billion detection capability, and despite the more rapid detection and response, the fence-line monitoring system creates the appearance of more-frequent and longer-duration emissions events;
- c. Respondent plans to continue using the fence-line monitoring system to maximize its ability to promptly detect emissions events. Respondent recognizes its responsibility to promptly identify emissions events and perform corrective actions. This Order has as its objective to assess appropriate penalties and achieve appropriate corrective actions while preventing Respondent from being disproportionately impacted by the enhanced detection capabilities of the fence-line monitoring system installed under the VERA, compared to its previous use of traditional emissions detection methodologies; and
- d. On April 22, 2009, the Commission approved an Agreed Corrective Action Order in Docket No. 2009-0022-AIR-E to address Respondent's responsibility for emissions events and to create a proactive comprehensive plan designed to reduce emissions identified by the VERA-related projects. Under that Order, Respondent was required to spend at least twenty million dollars (\$20,000,000) on Incremental Projects to enhance environmental performance at the Plant over a five year period of time. A list of proposed Incremental Projects was developed by Respondent and submitted for approval to the Executive Director. The Executive Director approved the List of Incremental Projects and Respondent successfully field implemented some of the

Executive Summary – Enforcement Matter – Case No. 48570
TPC Group LLC
RN100219526
Docket No. 2014-0563-AIR-E

Incremental Projects found on that List during the five year period of the Agreed Corrective Action Order. Respondent also met the Order requirement for the twenty million dollar (\$20,000,000) expenditure.

2. With regard to incremental projects designed to enhance environmental performance at the Plant (“Incremental Projects”):

a. The Executive Director recognizes that Respondent has spent an additional ten million dollars (\$10,000,000) prior to May 3, 2014, to begin construction on and/or complete and field implement more Incremental Projects than required under the Agreed Corrective Action Order in Docket No. 2009-0022-AIR-E to further enhance environmental performance at the Plant.

b. The Executive Director recognizes that the Incremental Projects that are currently undergoing construction and/or were completed and field implemented by May 3, 2014, were selected from the Approved Incremental List for TCEQ Docket No. 2009-0022-AIR-E (the “List”).

c. The Executive Director recognizes that the ten million dollars (\$10,000,000) spent on Incremental Projects at the Plant as of May 3, 2014 will be credited as an offset to the expenditure of twenty million dollars (\$20,000,000) on Incremental Projects required by Technical Requirement No. 3.

Technical Requirements:

1. Respondent shall immediately continue the use of its fence-line monitoring system at least until the expiration date of this Order.

2. Respondent shall reduce volatile organic compound (“VOC”) from emissions events at the Plant as follows:

a. “Phoenix Reportable EE VOC Emissions” refers to VOC emissions that are (i) associated with reportable emissions events at the Plant and (ii) released from emission points that are authorized by the Respondent’s Air Quality Permit Number 19806, as issued by the TCEQ December 17, 2013;

b. “Non-Phoenix Reportable EE VOC Emissions” refers to VOC emissions that are (i) associated with reportable emissions events at the Plant and (ii) released from emission points that are not authorized by Respondent’s Air Quality Permit Number 19806, as issued by the TCEQ December 17, 2013;

c. Respondent shall reduce VOC from emissions events at the Plant such that the Non-Phoenix Reportable EE VOC Emissions for any rolling 12-month period, starting with the effective date of this Order, shall not exceed 35,000 pounds;

Executive Summary – Enforcement Matter – Case No. 48570
TPC Group LLC
RN100219526
Docket No. 2014-0563-AIR-E

d. Respondent shall calculate Phoenix Reportable EE VOC Emissions for the first 24 months following startup of the project authorized by Respondent's Air Quality Permit Number 19806, as issued by the TCEQ on December 17, 2013; and

e. Respondent shall reduce VOC from emissions events at the Plant such that, for the 24-month period beginning 3 years after the effective date of this Order, Phoenix Reportable EE VOC Emissions shall be at least 25% lower than the amount calculated under 2.d.

3. Respondent shall spend at least twenty million dollars (\$20,000,000) on Incremental Projects at the Plant. The Incremental Project expenditures shall be separate and apart from Respondent's expenditures for routine maintenance at the Plant and will be aimed at reducing VOC emissions at the Plant.

4. Immediately, and until the date of termination of this Order, Respondent shall be liable to the Commission for stipulated penalties for:

a. Each emissions event during which the quantity of unauthorized emissions of VOC from any source at the Plant exceeds the applicable reportable quantity including an emission event that causes highly reactive volatile organic compounds ("HRVOC") emissions from any flare, vent, pressure relief valve, cooling tower, or combination of those sources at the Plant to exceed the emission limitation;

b. Each excess opacity event from any source at the Plant that is caused by un-combusted hydrocarbons; and

c. Each violation of the reporting requirements of 30 TEX. ADMIN. CODE § 101.201 identified by the Executive Director as an emissions event at the Plant.

5. Emissions and reporting violations to which No. 4 apply shall not:

a. Be the subject of a Notice of Violation; or

b. Be treated as violations under 30 TEX. ADMIN. CODE ch. 60.

6. For emissions events that result in unauthorized emissions of VOC that exceed the applicable reportable quantity, the amount of the stipulated penalty will be determined by the amount of those emissions, and violations of reporting requirements will be on a per report basis. The amount of the stipulated penalty for each discrete event shall be as set forth in Exhibit A.

Executive Summary – Enforcement Matter – Case No. 48570

TPC Group LLC

RN100219526

Docket No. 2014-0563-AIR-E

7. During the term of this Order, in addition to complying with the HRVOC Emissions Cap and Trade Program under 30 TEX. ADMIN. CODE ch. 101, Subchapter H, Respondent shall transfer to the TCEQ allowances allocated by the Executive Director under the HRVOC Emissions Cap and Trade Program in an amount that is equivalent to an additional 10% of the amount of unauthorized HRVOC emissions in any emissions event subject to stipulated penalties under No. 4 of this section. This amount shall not exceed the short term limit established in 30 TEX. ADMIN. CODE § 101.396(b). HRVOC allowances forfeited by Respondent under this paragraph shall not be used simultaneously to satisfy offset requirements allowed by 30 TEX. ADMIN. CODE § 101.393(d). HRVOC allowances forfeited by Respondent under this Technical Requirement shall be forfeited from the most recently allocated allowances first before banked allowances may be used.

8. Progress Reports. By the 60th day after the end of the first six-month period following the effective date of this Order, and by the 60th day following the end of each subsequent semi-annual period during the term of this Order, Respondent shall submit to the Executive Director semi-annual Progress Reports. The Progress Reports shall:

a. With regard to the reduction of VOCs from emissions events at the Plant identified in No. 2:

i. Identify on a monthly basis the emissions events by incident numbers occurring at the Plant for the prior semi-annual period;

ii. Provide the speciated VOC emissions, the total HRVOC emissions, total Phoenix VOC emissions, total Non-Phoenix VOC emissions, and total VOC emissions for each emissions event that occurred at the Plant during the semi-annual period;

iii. Provide cumulative HRVOC emissions, Phoenix VOC emissions, Non-Phoenix VOC emissions, and VOC emissions for each month during the semi-annual period;

iv. Provide the aggregate HRVOC emissions, Phoenix VOC emissions, Non-Phoenix VOC emissions, and VOC emissions based on a rolling 12-month period; and

v. Provide the cumulative VOC reduction from emissions events at the Plant for the prior semi-annual period.

b. With regard to Incremental Projects identified in No. 3:

i. Identify the Incremental Project(s) at the Plant for the prior semi-annual period;

ii. Describe how the Incremental Project(s) were designed to prevent and/or reduce emissions from the Plant;

Executive Summary – Enforcement Matter – Case No. 48570
TPC Group LLC
RN100219526
Docket No. 2014-0563-AIR-E

iii. Explain why the Incremental Project(s) identified in the report were distinct from the routine maintenance activities at the Plant;

iv. Provide a total of the routine maintenance expenditures at the Plant over the prior semi-annual period; and

v. Provide an updated total of cumulative Incremental Project spending at the Plant since the effective date of this Order.

c. With regard to the stipulated penalties established in No. 4 of this section, Respondent shall:

i. Provide a copy of the payment;

ii. State the total amount of the stipulated penalties due for the prior semi-annual period;

iii. Identify, for each emissions event or excess opacity event for which stipulated penalties are due, the following:

A. The source(s) of the unauthorized emissions;

B. The amount of the stipulated penalty;

C. A summary of the root cause(s) of the emissions event or excess opacity event;

D. Whether the corrective action for the event qualifies as an Incremental Project; and

E. How the corrective action addressed the root cause(s) of the event.

iv. Identify, for each reporting violation:

A. The incident number;

B. The incident date;

C. The specific reporting deficiency(s); and

D. Corrective action taken to prevent future reporting deficiencies.

d. With regard to the HRVOC allowance forfeiture established in No. 7, Respondent shall:

Executive Summary – Enforcement Matter – Case No. 48570

TPC Group LLC

RN100219526

Docket No. 2014-0563-AIR-E

i. State, for each emissions event for which stipulated penalties are due, the amount of unauthorized HRVOC emissions;

ii. State the HRVOC allowances that Respondent will forfeit under No. 7 based on emissions events that occurred during the semi-annual period; and

iii. State the calendar-year-to-date total of HRVOC allowances that Respondent will forfeit for the control period under No. 7.

9. Annual Report to the Commission. By the 90th day after the end of the first 12-month period following the effective date of this Order, and by the 90th day following each subsequent anniversary of the effective date of this Order, Respondent shall submit to the Commission an Annual Report. The Annual Report shall summarize the information presented in the two semi-annual Progress Reports for the prior 12-month period. Respondent shall, upon request of the Commission or the Executive Director, present the Annual Report to the Commission.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Michael S. White, Senior Vice President – Operations, One Allen Center, Suite 1000, Houston, Texas 77002

Respondent's Attorney: N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TPC GROUP LLC;
RN100219526**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-0563-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties ("Order"), regarding TPC Group LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Enforcement Division, and Respondent together stipulate that:

1. Respondent owns and operates a chemical manufacturing plant at 8600 Park Place Boulevard in Houston, Harris County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Order, and that Respondent is subject to the Commission's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it addresses matters relating to TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
4. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
5. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
6. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

7. The Executive Director recognizes that:
- a. Since June 9, 2005, Respondent has been subject to a Voluntary Emissions Reduction Agreement (VERA) with the Executive Director designed to further reduce emissions of butadiene at the Plant through the use of a fence-line monitoring system and other emission control measures;
 - b. This fence-line monitoring system at the Plant has enhanced Respondent's ability to detect emissions events, the speed at which it detects emissions events, and its ability to quickly identify the source of an emissions event, compared to traditional emissions detection methodologies. This has given Respondent the ability to respond more rapidly to emissions events at the Plant. Due to the fence-line monitoring system's low parts-per-billion detection capability, and despite the more rapid detection and response, the fence-line monitoring system creates the appearance of more-frequent and longer-duration emissions events;
 - c. Respondent plans to continue using the fence-line monitoring system to maximize its ability to promptly detect emissions events. Respondent recognizes its responsibility to promptly identify emissions events and perform corrective actions. This Order has as its objective to assess appropriate penalties and achieve appropriate corrective actions while preventing Respondent from being disproportionately impacted by the enhanced detection capabilities of the fence-line monitoring system installed under the VERA, compared to its previous use of traditional emissions detection methodologies; and
 - d. On April 22, 2009, the Commission approved an Agreed Corrective Action Order in Docket No. 2009-0022-AIR-E to address Respondent's responsibility for emissions events and to create a proactive comprehensive plan designed to reduce emissions identified by the VERA-related projects. Under that Order, Respondent was required to spend at least twenty million dollars (\$20,000,000) on Incremental Projects to enhance environmental performance at the Plant over a five year period of time. A list of proposed Incremental Projects was developed by the Respondent and submitted for approval to the Executive Director. The Executive Director approved the List of Incremental Projects and Respondent successfully field implemented some of the Incremental Projects found on that List during the five year period of the Agreed Corrective Action Order. Respondent also met the Order requirement for the twenty million dollar (\$20,000,000) expenditure.

II. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent shall immediately continue the use of its fence-line monitoring system at least until the expiration date of this Order.
2. Respondent shall reduce volatile organic compound ("VOC") from emissions events at the Plant as follows:

- a. "Phoenix Reportable EE VOC Emissions" refers to VOC emissions that are (i) associated with reportable emissions events at the Plant and (ii) released from emission points that are authorized by Respondent's Air Quality Permit Number 19806, as issued by the TCEQ December 17, 2013;
 - b. "Non-Phoenix Reportable EE VOC Emissions" refers to VOC emissions that are (i) associated with reportable emissions events at the Plant and (ii) released from emission points that are not authorized by Respondent's Air Quality Permit Number 19806, as issued by the TCEQ December 17, 2013;
 - c. Respondent shall reduce VOC from emissions events at the Plant such that the Non-Phoenix Reportable EE VOC Emissions for any rolling 12-month period, starting with the effective date of this Order, shall not exceed 35,000 pounds;
 - d. Respondent shall calculate Phoenix Reportable EE VOC Emissions for the first 24 months following startup of the project authorized by Respondent's Air Quality Permit Number 19806, as issued by the TCEQ December 17, 2013; and
 - e. Respondent shall reduce VOC from emissions events at the Plant such that, for the 24-month period beginning 3 years after the effective date of this Order, Phoenix Reportable EE VOC Emissions shall be at least 25% lower than the amount calculated under Ordering Provision No. 2.d.
3. Respondent shall spend at least twenty million dollars (\$20,000,000) on incremental projects designed to enhance environmental performance at the Plant ("Incremental Projects"). The Incremental Project expenditures shall be separate and apart from Respondent's expenditures for routine maintenance at the Plant and will be aimed at reducing VOC emissions at the Plant.
 4. From the effective date of this Order until the date of termination of this Order, as identified in Section I, Paragraph No. 5, above, Respondent shall be liable to the Commission for stipulated penalties for:
 - a. Each emissions event during which the quantity of unauthorized emissions, as defined in 30 TEX. ADMIN. CODE § 101.1, of VOC from any source at the Plant exceeds the applicable reportable quantity ("RQ"), as defined in 30 TEX. ADMIN. CODE § 101.1, including an emission event that causes highly reactive volatile organic compounds ("HRVOC") emissions from any flare, vent, pressure relief valve, cooling tower, or combination of those sources at the Plant to exceed the emission limitation established in 30 TEX. ADMIN. CODE § 115.722(c)(1);
 - b. Each excess opacity event, as defined in 30 TEX. ADMIN. CODE § 101.1, from any source at the Plant that is caused by un-combusted hydrocarbons; and
 - c. Each violation of the reporting requirements of 30 TEX. ADMIN. CODE § 101.201 identified by the Executive Director as an emissions event at the Plant.
 5. Emissions and reporting violations to which Ordering Provision No. 4 apply shall not:
 - a. Be the subject of a Notice of Violation; or
 - b. Be treated as violations under 30 TEX. ADMIN. CODE ch. 60.

6. For emissions events that result in unauthorized emissions of VOC that exceed the applicable RQ, the amount of the stipulated penalty will be determined by the amount of those emissions, and violations of reporting requirements will be on a per report basis. The amount of the stipulated penalty for each discrete event shall be as set forth in Exhibit A. This Paragraph does not apply to:
 - a. Emissions caused by an act of God, war, strike, riot, or other catastrophes as provided for in TEX. WATER CODE § 7.251;
 - b. Emissions events that qualify as “excessive emissions events” under 30 TEX. ADMIN. CODE § 101.222; or
 - c. Emissions events that have adversely impacted human health and the environment but which do not otherwise qualify as “excessive emissions events” under 30 TEX. ADMIN. CODE § 101.222.
7. Ordering Provision No. 4 applies, notwithstanding any demonstration of an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
8. Payment of stipulated penalties does not constitute an admission of liability by Respondent.
9. Within 30 days after the end of an event for which stipulated penalties are due, Respondent shall send the payment for the stipulated penalties due for that event. Through advance coordination with the TCEQ Supplemental Environmental Project (“SEP”) Program, fifty percent (50%) of the stipulated penalties may be directed to one or more SEPs listed on the Commission’s approved SEP list for the Houston/Galveston/Brazoria (including Chambers County) area. The stipulated penalties shall be made payable to “TCEQ” with the notation “Re: TPC Group LLC, Docket No. 2014-0563-AIR-E” and shall be sent by certified mail, return receipt requested to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier’s Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
10. The Executive Director may exclude an emissions event from the stipulated penalty obligation under Ordering Provision No. 4 provided the Executive Director gives written notice to Respondent setting forth the basis for such exclusion under Ordering Provision No. 6.b. or 6.c. no later than 90 days after receipt of the transmittal of funds for that emissions event. Respondent will have 30 days from receipt of the written notice to respond to the notice and provide reasons why such exclusion should not be made. The Executive Director will make a final decision on the exclusion within 60 days of receipt of Respondent’s written response. In the event that the Executive Director decides to exclude an emissions event under this paragraph, and Respondent has submitted funds intended as a stipulated penalty payment for that event, the funds will be returned and no payment will be deemed to have been made. For all events that the Executive Director has excluded from the stipulated penalty provisions of this Order, the Executive Director may seek all administrative and/or civil enforcement remedies, including injunctive relief, available under the Texas Clean Air Act, Texas Health and Safety Code Chapter 382, and the Texas Water Code with respect to claims arising under or related to

that emissions event, and Respondent retains and may assert all defenses applicable and available to it under law or regulation.

11. During the term of this Order, in addition to complying with the HRVOC Emissions Cap and Trade Program under 30 TEX. ADMIN. CODE ch. 101, Subchapter H, Respondent shall transfer to the TCEQ allowances allocated by the Executive Director under the HRVOC Emissions Cap and Trade Program in an amount that is equivalent to an additional 10% of the amount of unauthorized HRVOC emissions in any emissions event subject to stipulated penalties under Ordering Provision No. 4 of this section. This amount shall not exceed the short term limit established in 30 TEX. ADMIN. CODE § 101.396(b). HRVOC allowances forfeited by Respondent under this paragraph shall not be used simultaneously to satisfy offset requirements allowed by 30 TEX. ADMIN. CODE § 101.393(d). HRVOC allowances forfeited by Respondent under this Ordering Provision shall be forfeited from the most recently allocated allowances first before banked allowances may be used.
12. Progress Reports. By the 60th day after the end of the first six-month period following the effective date of this Order, and by the 60th day following the end of each subsequent semi-annual period during the term of this Order, Respondent shall submit to the Executive Director semiannual Progress Reports. The Progress Reports shall:
 - a. With regard to the reduction of VOCs from emissions events at the Plant identified in Ordering Provision No. 2:
 - i. Identify on a monthly basis the emissions events by incident numbers occurring at the Plant for the prior semi-annual period;
 - ii. Provide the speciated VOC emissions, the total HRVOC emissions, total Phoenix VOC emissions, total Non-Phoenix VOC emissions, and total VOC emissions for each emissions event that occurred at the Plant during the semi-annual period;
 - iii. Provide cumulative HRVOC emissions, Phoenix VOC emissions, Non-Phoenix VOC emissions, and VOC emissions for each month during the semi-annual period;
 - iv. Provide the aggregate HRVOC emissions, Phoenix VOC emissions, Non-Phoenix VOC emissions, and VOC emissions based on a rolling 12-month period; and
 - v. Provide the cumulative VOC reduction from emissions events at the Plant for the prior semi-annual period.
 - b. With regard to Incremental Projects identified in Ordering Provision No. 3:
 - i. Identify the Incremental Project(s) at the Plant for the prior semi-annual period;
 - ii. Describe how the Incremental Project(s) were designed to prevent and/or reduce emissions from the Plant;

- iii. Explain why the Incremental Project(s) identified in the report were distinct from the routine maintenance activities at the Plant;
 - iv. Provide a total of the routine maintenance expenditures at the Plant over the prior semi-annual period; and
 - v. Provide an updated total of cumulative Incremental Project spending at the Plant since the effective date of this Order.
- c. With regard to the stipulated penalties established in Ordering Provision No. 4 of this section, Respondent shall:
 - i. Provide a copy of the payment;
 - ii. State the total amount of the stipulated penalties due for the prior semiannual period;
 - iii. Identify, for each emissions event or excess opacity event for which stipulated penalties are due, the following:
 - A. The source(s) of the unauthorized emissions;
 - B. The amount of the stipulated penalty;
 - C. A summary of the root cause(s) of the emissions event or excess opacity event;
 - D. Whether the corrective action for the event qualifies as an Incremental Project; and
 - E. How the corrective action addressed the root cause(s) of the event, in accordance with the requirements of 30 TEX. ADMIN. CODE §101.201(b)(1)(K).
 - iv. Identify, for each reporting violation:
 - A. The incident number;
 - B. The incident date;
 - C. The specific reporting deficiency(s); and
 - D. Corrective action taken to prevent future reporting deficiencies.
- d. With regard to the HRVOC allowance forfeiture established in Ordering Provision No. 11 above, Respondent shall:
 - i. State, for each emissions event for which stipulated penalties are due, the amount of unauthorized HRVOC emissions;
 - ii. State the HRVOC allowances that Respondent will forfeit under Ordering Provision No. 11, based on emissions events that occurred during the semi-annual period; and
 - iii. State the calendar-year-to-date total of HRVOC allowances that Respondent will forfeit for the control period under Ordering Provision No. 11.

13. The reports required by Ordering Provision Nos. 12.a. through 12.c. shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

14. The report required by Ordering Provision No. 12.d. above shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

15. Annual Report to the Commission. By the 90th day after the end of the first 12-month period following the effective date of this Order, and by the 90th day following each subsequent anniversary of the effective date of this Order, Respondent shall submit to the Commission an Annual Report. The Annual Report shall summarize the information presented in the two semi-annual Progress Reports for the prior 12-month period. Respondent shall, upon request of the Commission or the Executive Director, present the Annual Report to the Commission.

16. The reporting requirements of this Order do not relieve Respondent of its obligations under 30 TEX. ADMIN. CODE § 101.390 to report any HRVOC allowance forfeiture to the TCEQ's Emissions Banking and Trading Team.

17. The reporting requirements of this Order do not relieve Respondent of its obligations under 30 TEX. ADMIN. CODE § 101.201 to report emissions events to the TCEQ. All emissions events subject to a stipulated penalty under this Order must be reported under 30 TEX. ADMIN. CODE § 122.145.

18. If the Executive Director identifies a violation for which a stipulated penalty has not been paid upon review of a semi-annual Progress Report submitted under this Order, the Executive Director shall notify Respondent of the violation and stipulated penalty due in writing within 30 days of receipt of the Progress Report. Respondent shall submit payment in accordance with Ordering Provision No. 9, above, no later than 30 days after receipt of notification from the Executive Director under this paragraph.

19. With regard to the Incremental Projects required by Ordering Provision No. 3:

- a. The Executive Director recognizes that Respondent has spent an additional ten million dollars (\$10,000,000) prior to May 3, 2014, to begin construction on and/or complete and field implement more Incremental Projects than required under the Agreed Corrective Action Order in Docket No. 2009-0022-AIR-E to further enhance environmental performance at the Plant.

- b. The Executive Director recognizes that the Incremental Projects described in Ordering Provision No. 19.a. that are currently undergoing construction and/or were completed and field implemented by May 3, 2014, were selected from the Approved Incremental List for TCEQ Docket No. 2009-0022-AIR-E (the "List").
 - c. The Executive Director recognizes that the ten million dollars (\$10,000,000) spent on Incremental Projects at the Plant as of May 3, 2014 and described in Ordering Provision No. 19.a. will be credited as an offset to the expenditure of twenty million dollars (\$20,000,000) on Incremental Projects required by Ordering Provision No. 3.
 - d. Activities at the Plant that are on the List prepared under the previous order in Docket No. 2009-0022-AIR-E qualify as Incremental Projects for this Order so long as the Respondent has not already received credit for such activities under this Order or the previous order. Additional projects may be added to the List and it may be otherwise updated or revised, upon the request of Respondent and approval of the Executive Director. For Respondent to receive credit for expenditures on a project, it must be on the approved List.
 - e. For any Incremental Project found on the List described in Ordering Provision No. 19.b. for which Respondent has spent monies on prior to the effective date of this Order and not otherwise given credit for under Ordering Provision Nos. 19.a. through 19.c., the TCEQ will accept submission of the Incremental Project, however, Respondent will be credited for only those monies actually spent on the Incremental Project after the effective date of this Order.
20. The duties and provisions contained in this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
21. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within 15 days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
22. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be submitted to the Order Compliance Team at the address listed in Ordering Provision No. 14, above.
23. Renegotiation and Early Termination. At any date on or after the first anniversary of the effective date of this Order, the Executive Director has the right to renegotiate the terms of this Order if the total unauthorized VOC emissions from emissions events subject to stipulated penalties under this Order equals or exceeds the amounts described in Ordering Provisions Nos. 2.c and 2.e. The Executive Director shall provide Respondent with written notice of intent to renegotiate the terms of this Order. If the Executive

Director and Respondent are unable to reach mutual agreement on modified terms of this Order within 90 days of that notice, the Executive Director shall have the right to Early Termination of this Order. If the Executive Director elects to exercise the right of Early Termination, the Executive Director shall provide Respondent with a written 15-day notice of the termination.

24. The Executive Director has the right to renegotiate the stipulated penalty amounts set forth in Exhibit A if the Texas Legislature amends the laws of the State of Texas to increase the maximum penalty that the TCEQ may assess for violations of TEX. HEALTH & SAFETY CODE ch. 382 and that statutory increase becomes effective within five years of the effective date of this Order. Any increase to the stipulated penalty amounts set forth in Exhibit A shall be no greater than the proportional increase in the statutory maximum penalty that the TCEQ may assess for a violation of TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director shall provide Respondent with written notice of intent to renegotiate the stipulated penalty amounts set forth in Exhibit A of this Order.
25. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
26. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
27. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

EXHIBIT A
Stipulated Penalties

Magnitude of Emissions (Per Event)	Stipulated Penalty per Emissions Event
Less than or equal to 500 lbs. of unauthorized VOC Or Excess Opacity Event	\$7,500 per event
Greater than 500 lbs. but less than 5,000 lbs. of unauthorized VOC	\$15,000 per event
Greater than or equal to 5,000 lbs. of unauthorized VOC	\$25,000 per event

Other Violation	Stipulated Penalty per Violation
30 TEX. ADMIN. CODE § 101.201 reporting violation	\$1,750

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

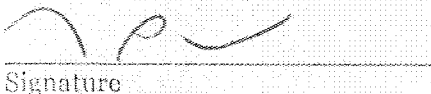
3/19/15
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the stipulated penalty amount(s), if any, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3/19/15
Date

Michael S. White
Name (Printed or typed)
Authorized Representative of
TPC Group LLC

SVP Operations
Title